

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation
- *Italic type* indicates proposed new text
- [Single brackets] indicate text proposed for deletion

Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 05

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Notice of Proposed Action

[18-135-P]

The Secretary of Housing and Community Development proposes to

- (1) Repeal in their entirety Regulations .01—18 under COMAR 05.05.03 Rental Allowance Program.
- (2) Adopt new Regulations .01—14 under a new chapter, COMAR 05.21.01 Homelessness Solutions Programs, under a new subtitle, Subtitle 21 Homelessness Solutions Programs.

Statement of Purpose

The purpose of this action is to adopt new COMAR 05.21.01 Homelessness Solutions Programs pursuant to Ch. 105, Acts of 2017, repeal COMAR 05.05.03 Rental Allowance Program, and consolidate the Department's regulations for programs that serve the homeless, including the Rental Allowance Program, under new COMAR 05.21.01.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Stuart Campbell, Director, Office of Programs and Regional Development, Department of Housing and Community Development, 7800 Harkins Road, Lanham, MD 20706, or call 301-429-7522, or email to stuart.campbell@maryland.gov. Comments will be accepted through June 25, 2018. A public hearing has not been scheduled.

Subtitle 21 HOMELESSNESS SOLUTIONS PROGRAMS

05.21.01 Homelessness Solutions Programs

Authority: Housing and Community Development Article, §§4-1403(g), 4-1406, 4-2108, 4-2205(a)(4), and 4-2209(b), Annotated Code of Maryland

.01 Purpose.

The purpose of this chapter is to prescribe the policies and procedures for providing grants for administering the Homelessness Solutions Programs, including:

- A. The Rental Allowance Program, as set forth in Housing and Community Development Article, §4-1401 et seq., Annotated Code of Maryland;
- B. The Homeless Women — Crisis Shelter Home Program, as set forth in Housing and Community Development Article, §4-2201 et seq., Annotated Code of Maryland;
- C. The Housing Navigator and Aftercare Program, as set forth in Housing and Community Development Article, §4-2301 et seq., Annotated Code of Maryland; and
- D. Other homelessness programs that are funded by State, federal, or other sources.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Act" means Housing and Community Development Article, Annotated Code of Maryland.
- (2) "Application" means an application by a prospective recipient of services.
- (3) "At risk of homelessness" means a household with an annual income below 30 percent of the area median income and does not have sufficient resources or support networks immediately available to prevent household members from becoming homeless.
- (4) "Client" means a recipient of services.
- (5) "Continuum of Care" means the regional or local planning body that coordinates housing and services funding for homeless families and individuals as defined in 24 CFR §578.3.
- (6) "Crisis shelter home" means an emergency shelter that provides assistance in moving households from homelessness into permanent housing and provides shelter, meals, information and referral service, and counseling to households.
- (7) "Department" means the Department of Housing and Community Development, a principal department of the State.
- (8) "Dwelling unit" means a room, apartment, house, or mobile home.
- (9) "Eligible dwelling unit" means a dwelling unit that:
 - (a) Is subject to a physical inspection under a federal, another State, or a local affordable housing program, including the federal low-income housing tax credit program; or
 - (b) Meets the dwelling unit standards established by the Secretary in accordance with Housing and Community Development Article, §4-1403, Annotated Code of Maryland.
- (10) "Family shelter" means any shelter that serves children under the age of 18.
- (11) "Grant" means the funds awarded by the Department to a grantee from available program funds.
- (12) "Grant application" means an application for grant funds from the Department.
- (13) "Grantee" means a nonprofit entity or local government that receives a grant from the Department under a program.
- (14) "Homeless" means a household who lacks a fixed, regular, and adequate nighttime residence.
- (15) "Homelessness Solutions Programs" means any of the programs set forth in Regulation .01 of this chapter.
- (16) "Household" means an individual or one or more adults and children living together as a family.
- (17) "Housing assistance payments" means rental assistance payments that are used, for a period not to exceed 24 months, to pay:
 - (a) Rent;
 - (b) Security deposits;
 - (c) Utilities; and
 - (d) Housing-related expenses.
- (18) "Local government" means any of the 23 counties of the State, the City of Baltimore, a municipal corporation of the State subject to the provisions of the State Constitution, Article XI-E, or any of their duly authorized agencies, departments, or instrumentalities.
- (19) "Nonprofit organization" means a corporation, foundation, or other legal entity that is exempt from federal income tax under §501(c)(3) of the Internal Revenue Code.
- (20) "Program" means any of the Homelessness Solutions Programs.
- (21) "Program agreement" means an agreement or agreements between the Department and a grantee to implement one or more programs.
- (22) "Provider" means an entity that
 - (a) Is a nonprofit entity, a local government, or a public housing authority; and
 - (b) Contracts with the Department or a grantee to provide services under a program.

- (23) "Resident of the State" means a person who is living in the State voluntarily and not for temporary purposes, with no immediate intention of moving from the State at the time of application.
- (24) "Secretary" means the Secretary of Housing and Community Development.

.03 Eligible Grant Applicants.

A. A grantee shall meet the following minimum requirements:

- (1) Not be currently barred or suspended from any of the Department's programs;
- (2) Have the legal capacity and all necessary legal authority to incur the obligations involved in the grant;
- (3) Be in good standing and qualified to do business in Maryland; and
- (4) Be a continuum of care, a nonprofit organization, or a local government.

B. The Department may give priority to any applicant that is a continuum of care.

.04 Eligible Recipients and Requirements.

A. Rental Allowance Program

(1) Eligible recipients are:

- (a) Households with an annual income below 30 percent of the area median income and are homeless; and
 - (b) Households who are at risk of homelessness.
- (2) Funds provided under this program shall be used for housing assistance payments.
- (3) Housing assistance payments shall be made only on behalf of clients who have rented an eligible dwelling unit and where the lease or sublease is in the name of the client.
- (4) Dwelling units that are not already subject to a physical inspection under a federal, another State, or a local affordable housing program, including the federal low-income housing tax credit program:
- (a) Shall be inspected for conformance with the requirements of this regulation; and
 - (b) Shall be maintained by the dwelling unit owner so as to comply with the requirements of this section.

B. Homeless Women — Crisis Shelter Home Program

(1) Eligible recipients are women who are:

- (a) Homeless; and
 - (b) Residents of the State.
- (2) The crisis shelter home shall provide clients with a temporary residence for not more than 12 weeks.
- (3) The temporary residence may be a room in a hotel or motel.
- (4) Clients shall have cooperative responsibility for housekeeping duties in a crisis shelter home as follows:
- (a) Housekeeping duties shall be limited to the immediate area where the client sleeps; and
 - (b) Additional housekeeping duties shall be voluntary and not a valid reason for termination from the program.
- (5) Crisis shelter homes may not charge a fee to clients.
- (6) Admission policies of crisis shelter homes shall be accepting of households in need of shelter.

C. Housing Navigator and Aftercare Program

(1) Eligible recipients are households who are the recipient of or in the process of applying for temporary cash assistance, as defined in Human Services Article, §5-301, Annotated Code of Maryland.

(2) Funds provided under this program shall be used for:

- (a) Salary and FICA for housing navigators and aftercare case managers;
- (b) Client-related expenses, including:
 - (i) First and final months' rent;
 - (ii) Transportation for housing searches;
 - (iii) Moving expenses;
 - (iv) Essential furnishings;
 - (v) Storage;
 - (vi) Arrearages;
 - (vii) Credit checks and housing application fees;
 - (viii) Security deposits;
 - (ix) Utility deposits; and
 - (x) Other identified needs; and
- (c) Other items that the Department designates.

D. In addition to the eligible uses set forth in §§A–C of this regulation, the Department may allow additional uses of funds for costs and expenses related to reducing, eliminating, or preventing homelessness that are consistent with the funding source the Department receives for any other programs that serve the homeless.

E. A grantee may grant all or a portion of the funds it receives from the Department to a provider to carry out the program with approval from the Department and in accordance with the terms and conditions of an agreement with the Department.

.05 Grant Applications.

A. Grant applications shall be accepted in one or more rounds to be announced by the Department.

B. A grant application submitted to the Department shall:

- (1) Be on standard forms prescribed by the Department;
- (2) Be submitted by an eligible applicant;
- (3) Be for an eligible use;
- (4) Detail the need for homeless services in the applicant's area, including:
 - (a) The proposed plan for addressing those needs;
 - (b) The services for which funding is requested; and
 - (c) The providers who will be receiving funding under the applicant's proposed plan;
- (5) Provide a budget, acceptable to the Department that at a minimum shows anticipated project costs and expenses;
- (6) Contain the organizational documents of the applicant unless applicant is a local government; and
- (7) Include other information or documentation that the Department may require.

C. A grant application may be submitted for one or more programs.

D. An applicant may file one or more applications in accordance with schedules established by the Department.

E. Each grant application shall be submitted to the Department to determine whether all of the information required under this regulation is contained in the application.

F. The Secretary shall establish a procedure for distributing grant funds that takes into consideration the need to serve eligible clients on a Statewide basis.

G. The Secretary shall, in evaluating grant applications, take into consideration the prospective grantee's or provider's use of evidence-based best practices and conformity to a low-barrier housing first approach in providing services to clients.

.06 Program Administration.

A. The Department may establish from time to time detailed program guidelines or manuals containing application schedules, procedures, processing requirements, and other requirements or matters relating to the Programs.

B. The Department shall ensure that program guidelines and application forms are publicly available on its website and at its offices.

C. After a grant has been awarded to a grantee, the Department may:

- (1) Commence and pursue any action to protect or enforce any right conferred by law, contract, or other agreement;
- (2) Modify any provision of any grant in order to facilitate the successful completion or operation of a program; and
- (3) Exercise all powers authorized under the Act that are necessary or desirable for the implementation of the program, including, but not limited to, termination of a grant or refusal to make additional disbursements under a grant agreement if the Department finds that the grantee is not complying with any of the requirements of the program or the grant agreement.

D. Any action or decision required or permitted to be taken or made by the Department pursuant to the Act or this chapter may be taken by the Assistant Secretary of the Division of Neighborhood Revitalization.

.07 Delivery of Services.

A. The provider shall use an application document substantially similar to application documents used for other clients of the provider.

B. The provider shall assess the application document and determine eligibility.

C. The provider or grantee shall create a client-centered case plan for all clients receiving services.

.08 Books and Accounts.

A. A grantee and its contractors and subcontractors shall maintain books, accounts, and records and shall file with the Department financial and other reports as the Department may from time to time require.

B. All of these books, accounts, and records shall be open to the inspection of representatives of the Department or other agencies of the State during reasonable working hours.

C. Books, accounts, and records of designated third parties, contractors, and subcontractors shall be maintained and made available for inspection for 3 years past the date of termination of the contractual relationship between a provider, contractor, or subcontractor and the grantee.

D. Grantees shall submit reports to the Department on the progress or implementation of a project in accordance with an agreement with the Department.

.09 Reports and Forms.

A. The Department shall provide to the grantee all instructions, data elements, and other components necessary to carry out program requirements.

B. The grantee shall transmit to providers the forms that are applicable to the providers.

C. The grantee shall make reports required by the Department.

D. The grantee shall retain all records relating to services for a period of time defined by the program guide, and for a minimum of 3 years.

E. Confidentiality.

(1) The grantee may not disclose identifying information regarding an applicant or client without written authorization to do so from the applicant or client, except to the Department's employees authorized to monitor or audit the program.

- (2) The grantee shall maintain all written records regarding applicants and clients in a secure, locked location.

.10 Grievance Procedures.

A. This section applies to grantees and providers identified under Regulation .04E of this chapter.

B. Written Grievance Procedures.

- (1) Grantees and providers shall maintain written grievance procedures for termination and denial of benefits.
- (2) The written procedures shall be submitted with grant applications under Regulation .05 of this chapter and shall be approved by the Department.
- (3) A copy of the written procedures shall be provided to applicants upon application for benefits, and to recipients upon award of benefits.

C. Requirements for Grievance Procedures by a Grantee or Provider.

- (1) *Informal Hearing for Termination of Housing Subsidy and Housing Shelter Benefits.*
- (a) *Grounds for Termination of Benefits.* The grantee or provider shall identify grounds for termination of benefits, which shall be approved by the Department prior to enforcement.
- (b) *Notice of Termination.* Before terminating benefits, the grantee or provider shall provide the recipient with notice and opportunity for an informal hearing. The notice shall include:
- The date that termination of benefits will be effective;
 - A statement of reasons for the decision to terminate benefits;
 - Notification that if the client does not agree with the decision, the client may request an informal hearing for review of the decision;
 - The procedures for requesting an informal hearing; and
 - The deadline for requesting an informal hearing, which shall provide no fewer than 14 days for the client to submit the request.
- (c) *Notice of Hearing.* Upon receipt of a timely request for an informal hearing, the grantee or provider shall, within 7 days, schedule an informal hearing and provide notice to the client. The notice shall include:
- The date of issuance of the notice;
 - The date, time, and location of informal hearing, which shall be conducted within 14 days after the date of the notice;
 - The issue to be heard during the informal hearing;
 - Notice that the failure to appear will result in the termination decision being upheld;
 - The client's right to bring evidence, witnesses, and legal representation to the hearing, at the client's own expense;
 - The client's right to review relevant documents in the possession of the grantee or provider, prior to the hearing; and
 - Notice that the grantee or provider may request to review relevant documents in the possession of the client prior to the hearing.
- (d) *Conduct of Hearing.*
- Any hearing under this section shall be conducted by a person who neither made nor approved of the termination decision and is not subordinate to the person that made or approved the termination decision.
 - A client shall have the opportunity to provide an opening statement.
 - A client shall have the opportunity to present evidence.
 - A client shall have the opportunity to question witnesses.
 - A client shall have the opportunity to examine the documents that are the basis for the termination decision.
 - A client shall have the opportunity to request that grantee or provider staff be present to answer questions.
 - A client shall have the opportunity to present legal argument.
 - The grantee or provider shall have the same opportunities provided to the client in §C(1)(d)(ii)–(vii) of this regulation.
- (e) *Decision.*
- The person conducting the hearing shall issue a written decision within 30 days after the hearing. Benefits under this section may not be terminated until a decision is issued under this section affirming the termination decision.
 - Any decision affirming termination of benefits shall provide information to the client on the procedure for requesting an appeal.
- (2) *Informal Review for Termination of Other Benefits.*
- (a) *Grounds for Termination of Benefits.* The grantee or provider shall identify grounds for termination of other benefits, which shall be approved by the Department prior to enforcement.
- (b) *Notice of Termination of Benefits.* The grantee or provider shall provide clients with notice of termination of benefits and the opportunity for an informal review relating to termination of nonwelfare benefits. Benefits may be terminated prior to conduct of the informal review. The notice shall inform the client of the following:
- The action being taken, the reasons for the action being taken, and the effective date of the action;
 - Notification that if the client does not agree with the decision, the client may request an informal review of the decision;
 - The procedures for requesting an informal review of the decision; and
 - The time for requesting the informal review of the decision.
- (c) *Notice of Informal Review.* Upon receipt of a timely request for informal review under this section, the grantee or provider shall provide the client with a notice of scheduling the informal review. The notice shall include:
- The date of notice;
 - The date, time, and location of informal review;
 - The issue to be heard during the informal review and the client's right to present information in support of client's objections; and
 - That the failure to appear for the informal review will result in the decision being upheld.
- (d) *Conduct of Informal Review.* The informal review will be conducted by a person that neither made nor approved of the termination decision and is not subordinate to the person that made or approved the termination decision.
- Decision.*
 - The decision resulting from the informal review may be provided orally at the informal review or in writing no later than 30 days after the informal review.
 - If the decision resulting from the informal review does not uphold the termination of benefits, and benefits have already been terminated, the grantee or provider shall provide retroactive benefits to cover any loss in benefits during the period between the termination and reinstatement of benefits.
 - The decision shall provide information to the client on the procedure for requesting an appeal.
- (3) *Appeal of Grievance Decisions.*
- The client may appeal a decision provided under §C(1)(e) and (2)(e) within 30 days after issuance of the decision.
 - Appeals under this section shall be made in writing to the Department.

11 Nondiscrimination; Drug and Alcohol Free Workplace.

A An applicant may not discriminate on the basis of race, color, religion, national origin, sex, marital status, physical or mental disability, sexual orientation, gender identity, or age, except with regard to age as permitted under the federal Housing for Older Persons Act, as amended from time to time, or other similar federal laws, in any aspect of the Program, or in any aspect of employment by any applicant in connection with any project financed or assisted under the Program.

B An applicant shall comply with all applicable federal, State, and local laws and Department policies and programs regarding discrimination and equal opportunity in employment, housing, credit practices, and drug and alcohol free workplaces, including:

- Titles VI and VII of the Civil Rights Act of 1964, as amended;
- Title VIII of the Civil Rights Act of 1968, as amended;
- The Fair Housing Amendments Act of 1988, as amended;
- State Government Article, Title 20, Annotated Code of Maryland, as amended;
- The Department's Minority Business Enterprise Program, as amended;
- The Governor's Executive Order 01.01.1989.18, Drug and Alcohol Free Workplace, and any Department or State regulations adopted or to be adopted to carry out the requirements of that Order; and
- The Americans with Disabilities Act of 1990, as amended.

C The provider or grantee may not require the client to participate in religious activities as a condition of receiving services.

D Family shelters shall serve all households regardless of the sex, sexual orientation, gender identity, or age of any members of the family.

E Covenants implementing these requirements, including affirmative action measures, shall be included in appropriate agreements between the Department and other parties, and between the grantees and other parties.

12 Waiver.

The Secretary may waive or vary provisions of this chapter to the extent that the waiver or variance is consistent with the Act and if, in the written determination of the Secretary, the application of a regulation in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the Act.

13 False Statements.

A An individual may not knowingly make or cause to be made a false statement or report in any document required to be furnished to the Secretary or the Department by an agreement relating to the grant.

B An individual applying for or benefiting from a grant under the Program may not knowingly make or cause to be made a false statement or report for the purpose of influencing the action of the Secretary or the Department on a grant application or for the purpose of influencing the action of the Secretary or the Department affecting the grant already provided.

C An individual who violates §A or B of this regulation is subject to immediate cancellation of the grant provided by the Program and any other penalties authorized by law.

14 Severability.

The provisions of these regulations are severable. A judgment by any court of competent jurisdiction finding or declaring that any provisions of these regulations or the application of any provision to any person or circumstance is invalid does not affect the validity of the remaining provisions of the regulations or any other application of these regulations, and the remaining regulations shall have full force and effect as if no judgment had been entered.

KENNETH C. HOLT
Secretary of Housing and Community Development

Title 09

DEPARTMENT OF LABOR, LICENSING, AND REGULATION

Subtitle 09 MARYLAND BOARD OF MASTER ELECTRICIANS

09.09.01 Fees and Deadlines

Authority: Business Occupations and Professions Article, §§6-205, §6-305, 6-306, and 6-306.1, § 6-207, 6-309, 6-310, 6-311, 6-312, 6-313, 6-401, 6-402, and 6-606; Business Regulation Article, §§2-106.9 and 2-106.10, Annotated Code of Maryland

Notice of Proposed Action {18-139-P}

The State Board of Master Electricians proposes to repeal existing Regulation .01, recodify existing Regulation .02 to be Regulation .04, and adopt new Regulations .01—.03 under COMAR 09.09.01 Fees and Deadlines. This action was considered at a public meeting of the State Board of Master Electricians held on March 27, 2018, notice of which was provided by posting on the State Board of Master Electricians' website, in accordance with General Provisions Article, §3-302(c)(ii), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to define the term "mechanical boards" and establish by regulation fees charged by the Board to cover actual, documented costs of fulfilling the duties of the mechanical boards and the State Board of Master Electricians, in particular. The regulation also amends the section number for the regulation pertaining to deadlines applicable to State Master Electrician license candidates.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact